

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Rule and Regulation No. 204
Public Service Commission, on)
its own motion, seeking to)
amend Title 291, Chapter 3,) ORDER ISSUING CERTIFICATE OF
Motor Carrier Rules and) ADOPTION AND ADOPTING SECOND
Regulations, to adopt rules in) SET OF PROPOSED RULES
accordance with Nebraska)
Legislative Bill 734 [2020].)
Entered: May 25, 2021

BY THE COMMISSION:

On August 25, 2020, the Nebraska Public Service Commission ("Commission"), on its own motion, opened the above-captioned docket to amend provision the Commission's Rules and Regulations Chapter 3, Motor Carriers, in accordance with Nebraska Legislative Bill 734 passed in 2020 by the Nebraska Legislature. LB 734 requires the Commission to promulgate rules regarding signage and other indicia distinguishing between buses providing special party services and charter services, as each service classification has new regulatory requirements under the Nebraska Liquor Control Act.

The Commission released the First Set of Proposed Rules for comment from interested parties and scheduled a hearing. No comments were received. Hearing on this matter was held on October 14, 2020 in the Commission Hearing Room and via WebEx. No interested parties offered testimony at the hearing, but discussion between Commissioners and staff identified a need for further clarification in the proposed rules.

On March 16, 2021, the Commission released its Second Set of Proposed Rules for comment and scheduled a hearing. Notice of the hearing was published in The Daily Record, Omaha, the Omaha World-Herald, Omaha, and the Lincoln Journal-Star, Lincoln, on March 23, 2021. Additional notice of the hearing was sent via email to the Chairman of the Executive Board, the Governor's Policy and Research Office, and the Nebraska Secretary of State.

Public hearing on the second set of proposed rules was held on April 27, 2021. Ms. Jamie Reyes and Mr. Dillon Keiffer-Johnson appeared on behalf of the Commission staff. There were no other appearances.

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E V I D E N C E

Ms. Jamie Reyes testified on behalf of Commission staff. Ms. Reyes summarized the proposed rules amendments to existing Rule 009.08D to specify that signs must provide notice of alcohol consumption allowed on the bus, the carrier's Commission authority number, and Nebraska Liquor Control license number. Signage would need to be legible from 50 feet and lettering would need to be a distinct color contrast from the color of the sign.¹

Exhibits 8 through 14 were received into evidence. No other exhibits or comments were received.

O P I N I O N A N D F I N D I N G S

LB 734 required the Commission to promulgate rules and regulations regarding signage for those carriers operating in special party and/or charter bus service and allowing the consumption of alcohol on the bus.² Discussions between Commissioners and staff during the first hearing on proposed rules served as the basis of the changes set forth in the second proposed set of rules. Proposed Rule 009.08D was amended to clarify the wording for each sign and define when a carrier must display a license number issued by the Nebraska Liquor Control Commission. Previous language being deleted is represented by overstriking the language and new language is designated in bold.

The proposed rules, attached hereto as Appendix A, reflect the rules as proposed. As no comments written or at hearing were received from any interested party, the Commission adopts the revisions as proposed. The Commission finds that the proposed rules in Appendix A should be adopted and a Certificate of Adoption issued.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission a certificate of adoption for the proposed rules set forth in Appendix A be, and is hereby, issued.

¹ Hrg. Trans. 8:23-10:25.

² NEB. REV. STAT. § 75-161.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 25th day of May, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chair

ATTEST:


Executive Director

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Appendix A

009 BUSES: The following provisions pertain only to carriers providing bus service as defined in rule 003.01A et seq.:

009.01 Refusal to Carry: No driver of any vehicle which transports passengers will refuse to carry any person offering himself or herself for carriage at any time at any regular stopping place who tenders the regular fare to any regular stopping place on the route of such carrier, or between the termini of the route, unless at the same time of such offer the vehicle is fully occupied or unless the person tendering such fare is intoxicated or acting in a disorderly manner.

009.02 Trailers: Unless specifically authorized in writing by the Commission, no carrier will transport passengers in a vehicle with any trailer or other vehicle attached, except in a case where a vehicle has become disabled while on a trip and is unable to run on its own power, such disabled vehicle may be towed to a point where repair facilities are available.

009.03 Aisles: Drivers will at all times keep the aisles from front to rear of their buses free from obstructions of any kind, and will not permit passengers to ride on any other part of the vehicle other than the seats while the vehicle is in motion except in an emergency. Passengers will not be allowed in front of a two inch (2") wide white line which will be painted on the floor of each vehicle immediately behind the driver's seat. Each vehicle will have a notice visible at the front of the vehicle that passengers must remain behind the white line.

009.04 Heat: Vehicles used to transport passengers will be equipped with a heating system sufficient to keep the vehicle comfortable for its passengers.

009.05 Lighting: Vehicles will be equipped with lights of not less than two candle power within the vehicle and so arranged as to light up the whole of the interior except that portion occupied by the driver.

009.06 Emergency Exit Doors: All vehicles with a seating capacity of eight (8) or more passengers will have emergency exits either in the form of push out windows, or a door on the opposite side of the vehicle entry or at the rear of the vehicle. The door will be equipped with a latch which may be readily operated in an emergency. There shall be no obstructions, either inside or outside, which

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would prevent the door from being opened. The exits will be easily accessible to passengers.

009.07 Timetables: Each carrier who transports passengers in regular scheduled service will file with the Commission prior to commencing operations, a timetable or schedule showing the time of arrival or departure of its vehicles at each point of the route and the number of trips made daily. When any change is made in the table or schedule, a new table or schedule will be filed with the Commission. All time schedules and revisions will be filed with the Commission not less than ten (10) days prior to the proposed effective date unless otherwise authorized by the Commission. No time schedule or revision will be effective until approved by the Commission.

009.08 Charter Service and Special Party Service: The following provisions apply only to charter service and special party service as designated.

009.08A No charter or special party service will be conducted between the same points or over the same route so frequently as to be construed as a regular or scheduled service.

009.08B Special party service will not be conducted between points on the route of another route so frequently as to be construed as a regular or scheduled service.

009.08C Carriers holding certificates restricted to charter service or sightseeing operations will be prohibited from conducting special party operations.

009.08D Each vehicle used in charter or special party service will be so designated by a sign on the front of the vehicle used for such service.

~~09.08D1 Each sign used to designate said vehicle used for charter or special party service must also include notice that the owner or operator of the vehicle is or is not allowing the consumption of alcoholic liquor in the vehicle by an individual who is twenty-one years of age or older.~~
Each sign must contain the following information:

~~009.08D1A As used in this section, alcoholic liquor is as defined under Neb. Rev. Stat. §53-103.2. Affirmation or denial that the owner or operator of the vehicle is allowing the consumption of alcoholic liquor in the vehicle by an individual who is twenty-one years of age or older; and~~

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009.08D1Ai As used in this section, alcoholic liquor is as defined under neb. Rev. Stat. 53-103.2.

009.08D1B Whether the current trip is being performed under a charter or a special party designation in accordance with rules 003.01A2 and 003.01A3; and

009.08D1Bi If the current trip is being completed under a special party designation, then the sign must also include the license number assigned to the operating authority by the Nebraska Liquor Control Commission.

009.08D1C The name or trade name of the carrier under whose authority the vehicle is being operated; and

009.08D1D The Commission authority number, excluding supplemental numbers.

009.08D2 ~~The name or trade name of the carrier under whose authority the vehicle is being operated and the Commission authority number, excluding supplement numbers, assigned to the operating authority, will be displayed on each sign used to designate said vehicle used for charter or special party service. If the owner or operator of the vehicle is allowing the consumption of alcoholic liquor in the vehicle by an individual who is twenty-one years of age or older, the sign must also include the license number assigned to the operating authority by the Nebraska Liquor Control Commission.~~ Each sign will be legible at all times from a distance of 50 feet (15.24 meters) while the vehicle is stationary. The color scheme of the lettering will be in distinct contrast to the background color of the sign.

009.08D3 ~~Each sign will be legible at all times from a distance of 50 feet (15.24 meters) while the vehicle is stationary. The color scheme of the lettering will be in distinct contrast to the background color of the sign.~~

009.08E Each carrier conducting charter or special party service will file with the Commission a tariff of rates for the transportation of parties and charges for dead head mileage which will be approved by the Commission prior to implementation. The tariff will also indicate at which points the carrier has equipment available for charter party service. No equipment will be held out as available at any non-authorized point.